

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION (WORCESTER)**

MICHAEL DAWE
Plaintiff,

V.

CAPITAL ONE BANK
Defendant.

CASE NO. 04-40192 FDS

**AFFIDAVIT IN SUPPORT OF CAPITAL ONE BANK'S
MOTION FOR SUMMARY JUDGMENT**

The undersigned hereby deposes and states under oath as follows:

1. I am a Senior Associate for Capital One Services, Inc. On behalf of Capital One Bank ("Capital One"), I have reviewed the records of Capital One as they pertain to a loan made to Michael Dawe in September 2000. This affidavit is based upon my review of those records, which were created and/or maintained by Capital One in the ordinary course of business.

2. The document attached hereto as Exhibit A is a true and accurate copy of a "10.9% Acceptance Certificate" (the "Acceptance Certificate") addressed to Mr. Dawe.

3. The document attached hereto as Exhibit B is a true and accurate copy of the Federal Disclosure Statement and Loan Agreement (the "Disclosure") that would have been enclosed with the Acceptance Certificate that was sent to Mr. Dawe.

4. On September 22, 2000, Capital One issued a check to Mr. Dawe in the amount of \$15,381.00 that established his loan account with Capital One. The document attached hereto as Exhibit C contains in the upper two-thirds of the page a true and accurate copy of the check. The stamp on the front of the check indicates that the check was negotiated by depositing it into an account at Country Bank.

5. The document attached hereto as Exhibit D is a true and accurate copy of the monthly account statement for Mr. Dawe's loan account with Capital One for the period August 27, 2000 through September 26, 2000.

6. Beginning in October 2000 and continuing on a monthly basis through March 2002, Capital One received checks in the amount of \$262.55 each bearing Mr. Dawe's name and address that were drawn against an account at Country Bank. In April 2002, Capital One received a check in the amount of \$10.00 bearing Mr. Dawe's name and address that was drawn against an account at Country Bank. Copies of these checks (except for the payment received in November 2000) are attached hereto as Exhibit E. Capital One has been unable to locate the check received in November 2000, but the payment is reflected on the periodic statement for that month, a copy of which is included in Exhibit E.

7. Capital One has no record of receiving any payments from Mr. Dawe or for his account after the \$10.00 payment received in April 2002.

8. As of April 26, 2002, the outstanding balance of Mr. Dawe's loan account was \$13,067.32. As of June 2004, the outstanding balance of Mr. Dawe's loan account was approximately \$16,223. At the present time, the outstanding balance of Mr. Dawe's loan account is approximately \$19,700.

Signed under the pains and penalties of perjury this 24th day of October 2006.

/s/ Karen Stieffel
Karen Stieffel
Senior Associate
Capital One Services, Inc.